

proceeded to adopt the suggestion of the court.

Mr. E. Bushong, one of the jury, was taken quite sick during the night, and a physician had to be summoned. The jury appeared to have recovered when he went in the box to-day.

"Some time before court convened Judge D. A. Grimsley took his seat behind counsel for prosecution and in front of B. F. Bywaters, the father of the slain man. Judge Grimsley is a connection of the Bywaters. This fact caused another judge to be designated to preside at the trial, Judge Grimsley is one of the most popular men in this entire Piedmont country, and he has the sympathy of all Calypso people, irrespective of individual opinion as to the merits of the case. It is also true that I have not heard a word from any citizen of the county expressing any opinion on the case, except sympathy for the father of the young fellow who lost his life on the night of that 15th of December.

"All will talk of a feud being established between the Bywaters and the Grimsleys, in view of this universal sentiment of sympathy.

**MRS. BYWATERS DEATHLY PALE**

Evidently She Had Nerved Herself Up to Stand Trying Ordeal.

When Judge Harrison convened court at 10 he had the room cleared of all save defendants, the lawyers and two officers of the court, members of the families and newspaper correspondents. A deaf mute entered the room after the prescribed classes had been excluded. He was allowed to remain.

Commonwealth's Attorney Keith announced that the one witness the prosecution had intended to put on to-day was material it had been decided, and that the Commonwealth would rest its case.

In a moment the doors were opened and Mrs. Bywaters, seated in a wheelchair, entered the room, accompanied by Mrs. Gaines, a sister, and one or two deputies and Clerk Coons. The chair was rolled around to the witness stand. Mrs. Gaines removed the heavy veil which concealed Mrs. Bywaters' face and hair. The unfortunate woman was deathly pale, and her dark eyes glowed with an unnatural light. She is a pretty woman, her face showing gentle birth and tender rearing.

**Did All to Spare Her.**

Mr. Lee conducted the examination of Mrs. Bywaters, his questions were propounded in the most sympathetic manner, and those in which he asked her to tell of her improper relations with the defendant, were couched in the most delicate terms. Frequently he would precede a question with the term, "My daughter," a form of expression designed to secure perfect frankness on the part of the witness. It was evident even before the prosecution proceeded with the cross-examination, that the witness was trying to tell the whole truth.

The witness spoke in a surprisingly strong and clear voice. Questions brought out that she is twenty-three years of age; that she went to the Episcopal Institute for Young Ladies at Winchester when she was sixteen years old, and remained there two years, and did not go to school any more.

"How long have you known the gentleman, whom you afterwards married?" asked Mr. Lee.

"I had known him ever since I was short dresses."

"Tell the jury whether he came to the house often, and how he was treated and how he treated you."

"Almost like a brother."

"And you grew up to be so treated?"

"Yes."

"When did your father die?"

"1904."

"Prior to your father's death had Bywaters seemed as a sweetheart to you?"

"No, I felt like a sister towards him."

"Did he treat you as a sister after your father's death?"

"Soon after father's death he became more affectionate in his attentions."

"You mean he made love to you?"

"Yes, the witness replied almost audibly."

"Who lived in the house after the death of your father?"

"Mother, Sister Bees and Philip."

"Tell the jury the extent to which your brothers were devoted to you."

"All of them have always been sweet and lovely to me as they possibly could; I was the baby girl."

"After your father's death did Bywaters come to see you frequently?"

"Yes, and 'you bet it's good.'"

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NEWS & BOYS' CLOTHING

"Yes; very often."

"To what extent was he regarded as one of the protectors of the family?"

"As one of the protectors."

"When did your mother die?"

"In 1905."

"Tell when the affection of Bywaters and yourself for each other ripened into improper relations."

"A few months before mother died."

"I loved him. I had confidence in him. He told me he would love me much more, and I believed him. He said he would be true to me and marry me. I believed in him."

"Those relations must have begun some time in December, 1904; your mother died in April, 1905?"

"Yes."

"Did you believe you had discovered the trouble which grew out of the improper relations?"

"In September, 1906."

"Did you call the attention of Bywaters to the fact?"

"Yes."

"And what did he say?"

"I thought all there was to do was for him to marry me. He said he was not able to marry. I thought he would marry me. He said he thought they must be some mistake about my condition."

"How long was it before he became convinced you were right in your fears?"

"About a month."

"Tell the jury how far your condition had progressed at that time."

"About two months."

"What did he suggest?"

"An operation."

"A criminal operation?"

"Yes, I rebelled. I thought he should marry me; should protect me as much as my brothers would do, and more."

"Did he show signs of yielding?"

"No, I finally agreed to the operation. I knew there was nothing else to do. I knew absolutely nothing about such an operation."

"The witness proceeded to describe the three trips she made to Washington for the purpose of having the operation performed, Bywaters on each occasion preceding her and going to the office of Dr. Leon, who performed the operation, or made the attempt."

The two staid at the Montrose Hotel. On one occasion at least they registered as Mr. and Mrs. Tyson, of Richmond. On each occasion Bywaters was present when the operation was performed, and made the attempt. She experienced terrible pain all three times.

### Dr. Leon Very Brutal.

On the first occasion, at least, Dr. Leon was very brutal in his treatment. Witness stated in reply to the question, that Bywaters did not remonstrate with him. The doctor assured her there would be results in forty-eight hours. There were none. Each time Bywaters, according to witness, insisted on another operation, and she remonstrated, but yielded. She testified that one occasion they had gone to Dr. Waters, of whom Bywaters said he had heard, but the doctor refused to perform the operation, and advised a marriage. That was on the occasion of the second visit to Washington.

"I believe he intended to marry me then," said the witness. "After you returned home, do you recall an occurrence which caused your brother Philip to suspect something wrong?"

"Yes."

"Tell about it."

"Jim came home, and he told me Phil had seen Mr. Bywaters cross the upper hall, going from my room to his, one night."

"Jim said this had caused Phil to send for him to come from West Virginia. I denied everything."

"Did Jim intimate he was going to speak to Bywaters?"

"I asked him not to."

"Why?"

"I wanted to shield him."

**Bywaters's Letter.**

"Did Bywaters write you a letter about it?"

"Yes."

"The letter was exhibited to the prosecution, and was passed back to the father of Bywaters by Judge Grimsley. The letter read in part as follows: 'I am going on to tell how worried he is through dwelling on her condition. 'You and your people were always so nice to me,' runs one sentence, 'and now for them to suspect me of such a sneaking thing.' He said he was worried by the fact that Phil had seen him leaving his room, and intended to tell him he was looking for a glass to take a drink, and did not want Phil to see him do it. He told me not to tempt him, and they will go to Blanche Miller's. The letter closes 'Yours Lovingly Forever, Bill.'"

"Had Bywaters acted improperly with you on that night?" asked Mr. Lee.

"Yes."

A second visit was made to Washington the day before Thanksgiving. The

doctor would not work on Thanksgiving Day, and Bywaters left her in the hotel from Friday afternoon until Saturday night, according to witness, while he went to Leesburg to see about some dog. On Monday they visited the doctor again, and the operation was performed. They went to and from the office on the street cars. Witness said the operation had left her in such a condition she could scarcely walk. The operation was not successful, and in about two weeks she and Bywaters returned to him, going on different trains to Washington, as usual, in order to divert suspicion.

**Pain of Death Itself.**

The third operation was very serious and far more painful than the rest, yet witness testified that she and Bywaters walked from the doctor's office, a fifteen minutes' walk, to a restaurant on the avenue, where she sat down while he went off to see about some mail.

"It was not a first-class restaurant, but a very nice one," she said. "I did not go to bed that night."

"How long did you remain alone there?"

"About an hour and a half."

"Did you know any one there?"

"No."

"Were you ill while there?"

"Yes."

"Did you call for help?"

"I went to the bathroom and stayed."

"When you went to Dr. Leon's office the last time did you remonstrate with Bywaters?"

"Yes, I told him I would rather die than go inside."

"What did he say?"

"It was the only thing to do."

"Did Dr. Waters tell him how dangerous the operation was Bywaters wanted performed?"

"Yes, he said it was terrible, and he did not know what the result might be."

**Thinking of Own Life.**

"Did you say anything?"

"I told him he ought to marry me. I repeated this several times. He made no reply."

"An action brought out the reply that Bywaters told Dr. Leon to be careful, that the death of Viola might cost him his own (Bywaters's) life."

"Did he, during any of these operations, manifest any great anxiety for your life?"

"No."

"Did Bywaters remain with you when he took you back to the hotel?"

"No."

"Did he take you in a carriage?"

"No."

"When did Bywaters leave you?"

"At 3 o'clock that afternoon."

"At this point the witness showed such signs of weakness and weariness the questioning ceased for a time, while her chair was lowered, and she assumed a somewhat reclining posture."

"What time did Bywaters return to you?"

"He left Thursday afternoon about 3 and returned Friday night about 9."

"Was he in the room to care for you?"

"No."

"Any one come to wait on you?"

"No."

"Know anybody in the hotel?"

"No."

Mrs. Gaines had to stand by her sister and lean vigorously.

"When were there results from this last operation?"

"Saturday night."

"Who was with you—Bywaters?"

"Yes."

"A physician?"

"Yes."

"On Wednesday, did anybody call Bywaters to the phone?"

"Yes, Mrs. Waters."

"Did she say what the message was?"

"Yes, she said a lady had been there with a child, looking for me."

"Did that excite Bywaters?"

"Very much."

Witness stated Dr. Waters came to see them and advised strongly against her trying to go home; said he could not answer for the consequences, owing to her condition as the result of the operation. Waters was astonished when they went to his office, as they were going to the train on Thursday. Viola got home about 3 that afternoon, and phoned out home, and a vehicle was sent for her, she reaching home about 6.

"Did you talk with elder of your brothers about the trouble?"

"With Jim, I brought up the subject at the instigation of Mr. Bywaters. I denied everything."

"At whose instigation?"

"Bywaters."

"Were you taken ill Friday morning?"

"Yes, with hemorrhages."

"Where?"

"In my room, while I was talking with my sister, Mrs. Gaines. I was sitting up."

Witness told of being called to the telephone by Bywaters while the hemorrhage was on. She could not recall the conversation.

**Shielded Bywaters.**

It was unimportant. Her brother French did not want her to answer, but she begged and he stood by her while she was talking. Bywaters was sent for when she was talking, but she had not confessed her shame.

"Bywaters was sent for and he went up to her room. 'Mrs. Gaines charged him with being responsible for my condition. We both denied it, but finally I owned up. French came into the room.'"

"What did French say?"

"He said he did not believe Mr. Bywaters would marry me, so that he did not know that he wanted him to marry me. He did not know he would let him marry me. He left Mr. Bywaters under the impression he would kill him."

"Tell the jury what French said after marriage was discussed."

"He wanted a marriage at once, but Mr. Bywaters begged for time, and I agreed to do what my brother thought best. I did not see him till about 5 o'clock Saturday afternoon."

"Did you know the marriage was to take place then?"

"Yes."

"Tell what occurred the afternoon of the marriage."

"He came up with the boys and argued for a time."

"Did you ask for delay in the marriage?"

"Yes; I thought that as he did not want to marry me he might not be good to me, and might desert me."

"What occurred after marriage?"

"The boys came up and kissed me and shook hands with Mr. Bywaters, and my

## A Lazy Liver

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sister said they would all arrange to give us money to start to housekeeping."

"Mr. Bywaters did not say anything."

"Tell whether he said anything about going away."

"In about fifteen minutes he said he would go back to town and get out announcements, and tell his mother of the marriage."

"Did you say anything?"

"No, I was very weak."

"When he spoke of announcement cards did you say anything?"

"I told him Jim was going to town and could attend to them."

"Did whether Bywaters was called to the telephone."

"He was. He was gone twenty minutes, and I told the girl to tell him to come up."

"Why?"

"I thought if he saw my condition he would make no attempt to leave me."

The other two boys, Jim and Phil, came into the room. Jim was standing at the head of the bed.

Mrs. Gaines was sitting by the bed. Witness showed by placing her arm around Mrs. Gaines how she had both here and there. Phil was sitting by the sisters.

"Did you hear Jim say anything?"

"He asked Mr. Bywaters whether he still intended to desert me. Then Mrs. Gaines came in."

"Did Bywaters make a reply?"

"No."

"What happened?"

"He sprang up. He almost drew me with him, as my arms were around him. He started downstairs."

"Did he say anything?"

"I am quite sure I was on my feet."

"What happened then?"

"I was in such a terrible physical condition I can't remember."

Witness said she could not recall whether she screamed, she could not tell whether there was any shooting in the room. She never saw Bywaters again.

"From the time you were married until Bywaters sprang from your side, were there any sign that the boys wanted to do him harm?"

"No."

"Did you see any pistols drawn?"

"No."

Witness said she was taken to Mrs. Gaines' home that night. She did not remember anything which occurred until the next day.

**Under Cross-Examination.**

At 11:30, after being on the stand an hour and twenty minutes, the witness was taken in hand by the prosecution for cross-examination. The examination was postponed for a few minutes, in order to allow the crowd to rest. Bywaters' hand shielded her face from the gaze of the spectators, apparently much exhausted.

"How many times did you see Dr. Waters in Washington?" asked Mr. Keith.

"Four or five. He came to the hotel to make to stay with them. He was very sorry for me."

"Do you remember having a conversation with him about the case?"

"Yes."

"You and Bywaters made full disclosures?"

"Yes."

"The doctor advised you to be married?"

"Yes."

Witness said he threatened to go to Washington and employ a detective to investigate the case. Bywaters was brought to the house.

"Did you seem to see me," said Strother, "coming smiling and offering his hand?"

"I told him I would not shake his hand. There was something he would have to explain. He laughed when I told him my suspicions. He laughed again and said it was ridiculous."

**Would Be Happiest Day.**

"I told him it would be the happiest day of my life if he could prove his innocence. He mentioned how he had been a friend of the family for so many years."

"I have a sister," he said, "and if a man were to injure her, I would kill him." He said that if anybody would hurt Viola, he would be quick to resent it."

Witness told of repeated denials of Bywaters that he had had anything to do